

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA, v. JOHN WESTLEY ROGERS, JR., Defendant.))))))	Case No. 2:23 cr-00311-LSC-GMB
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SENTENCING MEMORANDUM

COMES NOW, the defendant in the above-styled proceeding, **JOHN WESTLEY ROGERS, JR.**, by and through his undersigned counsel, and submits the following sentencing memorandum:

BACKGROUND

1. John W. Rogers, Jr, served in the United States Air Force from 1962-1966 ranked as 1st Lieutenant, serving as a Hospital Administrator. He also served with the 839 Tactical Unit for hospital deployment for combat.

2. Mr. Rogers spent a lifetime dedicated to the care of his community. His accomplishments are as follows:

- OIC (Opportunity Industrialization Center), Assistant Director- Provided jobs and training for low-income families.
- Comprehensive Employment and Training Act Program (CETA) - Director- Training and Placement.
- Probation Officer- Jefferson County Family Court. University of Alabama at Birmingham- For over 30 years, served as Director, Minority Programs- Responsible for many programs, including UAB's first Special Education Family

Reading Program. In 2009, received the outstanding performance for the Minority Business Training & Development Program.

- Volunteered 4th Ave YMCA - Developed Youth Programs for children in the Birmingham area.
- Outstanding Service Award for Athletic Program (1976-77)- Holy Family High School
- Distinguished Service Award (1987)- Birmingham Community and Miles Law School
- Received several Community School Outstanding Service Awards
- Certificate of Appreciation (1990)- Alabama Department Of Corrections
- Alethia House Foundation (1992)- Distinguished Service Award (Board of Directors, Oil & Gas Committee, Kiwanis Civic Club, Jefferson County Citizens Coalition, AL Democratic Conference & Local Legislation #2.
- Outstanding Service Award (1994)- Supportive Service Rendered to the Southwest Community
- Outstanding Public Servant Award (1996)- Exceptional Service to persons with kidney disease in Alabama.
- Honorary Letter (1997)- UAB Football
- Futures Inc. (1999)- Outstanding Service Rendered to At-Risk Youth
- Resolution of support (2001)- Alabama Institute for the Deaf & Blind
- Dedicated Service (2004)- Sickle Cell Foundation
- Man of the Year Award (2013)- Lilly Grove Missionary Baptist Church
- Recognition & Gratitude from several local schools- (2000-2001), (2010)

- Peggy Spain McDonald Award (1998)- Commitment and Support of Birmingham Community Education
- Received numerous EJ Oliver outstanding citizen awards for dedicated service to the state of Alabama
- West End Community Service 1984- 86, 2014
- Humanitarian Award (1984)- Fellowship Forum
- Jefferson Co Public Library (2012)- Library Champion Award
- UAB - Huntsville, Outstanding Leadership in Government 1999

ARGUMENT

3. In the Plea Agreement, the government agreed to recommend a sentence of fourteen (14) months of home confinement. The government requested that the Court depart from the advisory United States Sentencing Guidelines to an offense level of 11 with a criminal history category I, resulting in a guideline range of 8 to 14 months. This recommended departure or variance was based on U.S.S.G. § 5H1.1 (Rogers' age of 83 years) and U.S.S.G. § 5H1.4 (Rogers' physical condition). The Defendant also believes that his service to his country and his charitable actions and service to his community warrants a departure from the guidelines under U.S.S.G. § 5H1.11.

4. Rogers has pleaded guilty in a timely manner. He has accepted full and complete responsibility for his criminal conduct. He has not attempted to mitigate his role in the conspiracy. He has not attempted to shift blame to anyone else. He has resigned his office and has accepted the embarrassment and humiliation that comes with his resignation under these circumstances. He let down not only his constituents and the people of Alabama but also the "Office" that he held for more than forty (40) years. If he could apologize individually to each of

his constituents, he would. He humbly and sincerely apologizes to the Court and to the government.

5. Rogers is 83 years old, and despite what the presentence investigation report and the government's sentencing memorandum indicate, he has serious health issues. Attached to this memorandum is a narrative of Rogers' health concerns (Defendant's Exhibit 1) and a letter from his doctor at the Kirkland Clinic (Defendant's Exhibit 2).

6. Rogers is respectfully requesting that the Court enforce the Plea Agreement against the government and to sentence him to a term of fourteen (14) months of home confinement. For the foregoing reasons and others that may be discussed at sentencing, Mr. Rogers submits that a total sentence of fourteen (14) months of home confinement is sufficient, but not greater than necessary, to achieve the purposes of sentencing in this case. Such a sentence would adequately account for the nature, circumstances, and seriousness of Mr. Rogers' offense conduct, his role in the scheme, his military service, his community service, and his health factors, while also addressing the need for the sentence to provide just punishment, promote respect for the law, and afford adequate deterrence. 18 U.S.C. § 3553(a)(1), (2)(A)-(B).

Respectfully submitted on this, the 28th day of July, 2024.

/s/ John C. Robbins
John C. Robbins, ASB-5635-i70j
Attorney for the Defendant
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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this motion upon the Office of the United States Attorney by hand delivery and through the electronic filing system of the Clerk of the District on the date and time affixed hereon.

/s/ John C. Robbins
John C. Robbins

DEFENDANT'S EXHIBIT 1

John Rogers' health has been steadily declining since retirement; his Caregiver Bessie Williams has listed and specified all of John Roger's daily medical care and needs.

1. Ms. Williams provides total daily care for Mr. Rogers Sunday through Friday. She arrives at his residence around breakfast time and usually leaves after dinner around 7:30pm. She cooks breakfast, lunch, and dinner for Mr. Rogers and makes sure he is in bed before she leaves for the night. Ms. Williams is responsible for Mr. Rogers daily medical care.
2. Mr. Rogers gets confused often and has trouble articulating his words. For example, he gets confused with what day it is and has trouble recollecting if he has taken his medications. Mr. Rogers suffers from incontinence as a side effect of a medication.
3. Mr. Rogers is on insulin and has to check his blood sugar levels four times a day. Ms. Williams has to remind him daily to check his insulin levels. Mr. Rogers sometimes forgets to take his medicine daily or can not recall if he has taken his medicine earlier that day or not. Mr. Rogers experiences several side effects from the insulin.
4. Mr. Rogers can walk but with difficulty, he wears a life alert device around his neck because he is prone to falling. According to Ms. Williams and his daughter Mr. Rogers falls at least once a week. Mr. Rogers can not get up without aid. Mr. Rogers most recently fell in his garden and was laying there for an extended period of time.
5. Mr. Rogers has to take pain medication every day to help with his mobility and to manage pain. He takes lower than the prescribed amount of his pain meditation. His pain medication does contribute to Mr. Rogers forgetfulness. His doctor has encouraged him to take the prescribed amount of pain medication due to his condition worsening.

6. Due to his diabetes, his sugar “bottoms out” and he needs to eat food throughout the day to maintain his sugar levels. During the night, Mr. Rogers blood sugar levels will drop into the sixties, his daughter receives alerts about Mr. Rogers drops in blood sugar levels via her phone.
7. Mr. Rogers has been diagnosed with a chronic kidney disease and his medical provider has emphasized the necessity of dialysis. Mr. Rogers is not currently receiving dialysis but will need to in the very near future. Mr. Rogers’ sugar issues are damaging his kidneys. Mr. Rogers is currently on kidney medication. Mr. Rogers requires a special diet to watch and monitor his salt consumption because of his chronic kidney disease.
8. Mr. Rogers has been diagnosed with prostate cancer. His cancer is inoperable but his doctors are closely monitoring it.
9. Mr. Rogers requires a CPAP to sleep.

UAB UNIVERSITY OF ALABAMA
HEALTH SERVICES FOUNDATION, P.C.
THE KIRKLIN CLINIC

July 15, 2024

To Whom It May Concern:

John Rogers (DOB: 12/16/1940) is followed in my internal medicine clinic.

His medical problems currently include:

Diabetes mellitus, type
Hypertension
Chronic kidney disease
Prostate cancer
Vitamin D deficiency
Degenerative joint disease - particularly knees and hips
Obstructive sleep
Lactose intolerance
LUTS / enlarged prostate

His medications include:

Bystolic 10 mg oral tablet: 10 mg, 1 tab(s), Oral, Daily
Freestyle Libre 2 Sensors: See Instructions, Change sensor every 14
Ozempic 4 mg/3 mL (1 mg dose) subcutaneous solution: 1 mg, Subcut, Every 1 wk
Semglee Prefilled Pen 100 units/mL subcutaneous solution: 15 unit(s), Subcut, Daily
aspirin 81 mg oral tablet: 81 mg, 1 tab(s), Oral, BID, 90 tab(s), 0 Refill(s)
losartan 50 mg oral tablet: 50 mg, 1 tab(s), Oral, Daily, 180 tab(s), 3 Refill(s)
mirabegron 25 mg oral tablet, extended release: 25 mg, 1 tab(s), Oral, Daily, Do not
crush, chew, or divide., 90 tab(s), 4 Refill(s)
rosuvastatin 10 mg oral tablet: 10 mg, 1 tab(s), Oral, Daily, To lower cholesterol
tamsulosin 0.4 mg oral capsule: 0.4 mg, 1 cap(s), Oral, Daily, 90 cap(s), 4 Refill(s)
torsemide 20 mg oral tablet: 20 mg, 1 tab(s), Oral, Daily, 180 tab(s), 3 Refill(s)
tramadol 50 mg oral tablet: 50 mg, 1 tab(s), Oral, Every 6 hr, PRN: Severe hip pain

In addition to taking his medications as noted above, Mr. Rogers should:

- monitor his blood sugar with a Freestyle Libre continuous glucose monitor, to be changed every 14 days
- use a CPAP apparatus at night for treatment of sleep apnea
- get a minimum of 30 minutes of exercise each day
- follow an ADA-type diet for diabetes management, with no added salt.

University of Alabama Health Services Foundation, P.C.
The University of Alabama at Birmingham
2000 Sixth Avenue South Birmingham, Alabama
(205) 801-8000

If there are any further questions about my patient's medical condition, please contact my office.

Sincerely,

A handwritten signature in black ink, reading "L. Steven Hunt M.D." in a cursive style.

L. Steven Hunt, M.D.
Kirklin Clinic Internal Medicine
(205) 801-7474